IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Court's order whether the case is or not approved for reporting

(Chapter VIII, Rule 32 (2) (b)

Description of Case

Crl. Mise. Application No. 371 of 2006

Date of decision:-23-6-2006

Not approved for reporting

Date:- 23-6-2006 Initials of Judge

Note: - Bench Reader will attach this at the top of the first page of the judgment when it is put up before the Judge for signature.

HIGH COURT OF UTTARANCHAL , AT NAINITAL
Criminal Misc. Application No. 371 of 2006

V.B. Pandey
S/o late Shri Satya Bhushan Pandey
R/o 5/C Vasant Vihar Enclave
Dehradun ….Applicant

Versus

1. State of Uttaranchal
2. Promod Chandra Kukreti
   S/o late Sri K.C. Kukreti
   R/o 42 Kishan Nagar Kaulagarh Road
   Dehradun
3. Sri Mukul Kukreti
   S/o late G.C. Kukreti
   R/o Modal Colony
   Aaradhar Dehradun …..Respondents

Hon'ble J.C.S. Rawat, J.

1. Heard Sri Arvind Vashisht learned counsel for the applicant and Sri G.S. Sandhu learned A.G.A. for the State.

2. This is a petition under section 482 Cr.P.C. for quashing the order dated 10.04.2006 passed by the Judicial Magistrate, CBI, Dehradun and proceedings of case No.2024/2005 State Vs. Vijai Bhushan Pandey & others under section 323, 504, 506 IPC.

3. Brief facts of the case are that an FIR was lodged at the police station Kotwali Dehradun. The matter was investigated and thereafter the chargesheet was submitted before the trial court. Later on, the matter was settled between the applicant and the respondent no.2 amicably and they assured that the suitable application for withdrawal of case will be filed. The respondent no.2 filed an application that the matter has already been settled between the parties and as such the proceedings against the accused be dropped. The learned Judicial Magistrate, CBI, Dehradun has dismissed the said application on 14.02.2006. Feeling aggrieved

by the said order the applicant filed a petition under section 482 Cr.P.C. bearing No. 159/2006 and the same was decided on 09.03.2006 directing the applicant to approach the magistrate and a protection from coercive steps was granted to the applicant-V.B.Pandey. This Court has also directed both the parties to appear before the magistrate and the magistrate would find out whether the offence is liable to be compounded or not. This Court has also held that if the magistrate is of the view that the offence is compoundable, he would record the compromise in accordance with law. It was further directed that the magistrate would not be influenced by the order that the non-bailable warrants and a process under section 82 & 83 Cr.P.C. issued against the applicant.

4. In pursuance of the order dated 09.03.2006, the applicant moved an application before the magistrate and the magistrate also dismissed the same inspite of the order of this Court and again proceeded against the applicant and took coercive steps against the applicant. Non-bailable warrants were issued against both the accused and one of them i.e. Rubby Singh was arrested in this matter and he remained in jail for five days in a bailable offence. Feeling aggrieved by this, the applicant has filed this petition. The applicant has an apprehension that in case he appears before the magistrate he will again be sent to the jail in the bailable offence.

5. It was contended that the learned magistrate had not given effect to the order passed by this Court. Vide order dated 09.03.2006 this Court has observed that if the parties have come to compromise, the Magistrate should have seen as to whether the offences are compoundable or not. The court should have directed to

verify the compromise if the offences would have been found to be compoundable. The parties were directed to appear before the Magistrate and the Magistrate would find out whether the offence is liable to be compounded or not. If the Magistrate is of the view that the offence is compoundable, he would record the compromise in accordance with law. However, the Magistrate was directed not to influence by the order that the non-bailable warrants and a process under section 82 & 83 Cr.P.C. had been issued against the applicant.

6. The parties have again entered into the compromise. The compromise deed has been filed by the parties. The compromise was reduced into writing and the Addl. Registrar of this Court has verified it. The compromise is excepted and in view of this the proceedings are quashed.

7. Considering the above facts, the order dated 10.04.2006 and the entire proceedings in case No.2024/2005 are hereby quashed. The petition is disposed of accordingly.

(J.C.S.Rawat,J.)

Dated 23.06.2006

LSR